

Chapter 8. Complaint Handling and Disclosure Procedures

Article 1. General Provisions

77000. Definitions and References

- (a) “Administrator” has the same meaning as that in Section 73000(b).
- (b) “Chapter” means Chapter 8 of Division 7.5 of Title 5 of the California Code of Regulations unless otherwise stated.
- (c) “Evidence,” for purposes of this chapter, is defined by Section 140 of the Evidence Code and, therefore, means testimony, writings, material objects or other things presented to the senses that are offered to prove the existence or non-existence of a fact.
- (d) “Instructor” has the same meaning as that in Section 70000(e).
- (e) “Merit,” for purposes of this chapter, means that the Bureau has made a determination that the complaint allegations would constitute a violation of the Act or regulations adopted pursuant to the Act. Merit also means, after review and investigation, a finding that a violation of the Act or regulations adopted pursuant to the Act has been committed, even if the complainant does not specifically allege such violation.
- (f) “Nature of a complaint” means the general subject matter of an allegation, including such subjects as violation of the enrollment agreement, unapproved activity, and lack of job placement assistance. The nature of a complaint does not include the identity of the complainant or other “personal information,” as defined by Section 1798.3(a) of the Civil Code.

Note: Authority cited: Sections 94774, 94778 and 94960, Education Code.
Reference cited: Section 94960, Education Code; Section 140 and 1798.3, Evidence Code.

77005. Applicability of Chapter

- (a) Unless otherwise expressly stated, this chapter applies to any of the following:
 - (1) An administrator;

- (2) An instructor;
- (3) An institution required to obtain the Bureau's approval to operate pursuant to Article 8 (commencing with Section 94900) of the Code;
- (4) An institution required to obtain the Bureau's approval to operate pursuant to Article 9 (commencing with Section 94915) of the Code;
- (5) A registered institution subject to Article 9.5 (commencing with Section 94931) of the Code;
- (6) An agent or agency subject to Article 11 (commencing with Section 94940) of the Code.

Note: Authority cited: Sections 94774 and 94778, Education Code. Reference cited: Sections 94713, 94715, 94739, 94900, 94915, 94920, 94931, 94940, 94942 and 94960, Education Code, Sections 71010, 72010, 73010, Division 7.5 of Title 5 of the California Code of Regulations.

77010 Filing of a Complaint; Complaint Handling Procedures

(a) An individual who wishes to file a complaint against an institution, its administrator, instructor, agent or agency pursuant to this chapter shall complete and submit to the Bureau the Complaint Form # ECU-01, effective _____.

(1) The Bureau shall provide the Complaint Form # ECU-01, effective _____ to an individual who submits a complaint via facsimile, e-mail, mail, telephone, or in person at the Bureau's Sacramento office.

(2) An individual may remain anonymous and may omit personal information requested on the Complaint Form # ECU-01, effective _____, such as name, home address, or home telephone number.

(b) Within 10 days of receipt of the Complaint Form # ECU-01, effective _____, the Bureau shall inform a complainant in writing whether based on the information received the complaint appears to be within the Bureau's scope of authority to investigate.

(c) The Bureau may close a complaint indicating in the Bureau's records that the information is incomplete to process if, subsequent to the receipt of the complaint, any of the following occurs:

(1) The Bureau is unable to contact a complainant.

- (2) A complainant does not respond to the Bureau's written request for additional information or evidence within 15 days from the date the Bureau makes such request.
- (3) A complainant does not provide all of the information and evidence requested by the Bureau sufficient to process and investigate the complaint.
- (d) The Bureau shall close a complaint that is not within the Bureau's scope of authority to investigate and indicate in the Bureau's records that the complaint is non-jurisdictional. The following specific categories of non-jurisdictional complaints shall be handled as follows:
- (1) The Bureau shall transmit a complaint that concerns an institution accredited by the Western Association of Schools and Colleges to that Association in accordance with Section 94960(d) of the Code;
- (2) Except as specified in paragraph (1) of this subdivision, the Bureau shall transmit a complaint that is not within the Bureau's authority to investigate in accordance with Section 129 of the Business and Professions Code.
- (e) The Bureau shall provide a summary of allegations made against a non-WASC regionally accredited institution to that institution and to the applicable non-WASC regional accrediting agency. A copy of the summary of allegations shall be forwarded to the complainant. The Bureau shall close the complaint indicating in the Bureau's records that the complaint was referred to a non-WASC regional accrediting agency.
- (f) If a complaint concerns an institution subject to the Act that is not approved or registered, the Bureau shall inform a complainant that the institution is operating without approval or registration, whichever applies. The Bureau shall close the complaint indicating in the Bureau's records that the complaint has merit because the institution is required to be approved or registered under the Act. In addition, the Bureau may take any or all of the following actions:
- (1) Refer the complaint for further investigation or take any other administrative action in accordance with Article 13 (commencing with Section 94950) of the Code.

(2) Inform the complainant of any other means that may be available to the complainant to secure relief.

(g) If a complaint concerns an approved or registered institution that has ceased its operations, the Bureau shall inform the complainant that the institution is closed. The Bureau shall close the complaint indicating in the Bureau's records whether the complaint has merit, the complaint's allegations are not a violation of the Act, or the information the complainant provided is incomplete. In addition, the Bureau may take any of the following actions:

(1) Refer the complaint for further investigation or take any other administrative action in accordance with Article 13 (commencing with Section 94950) of the Code.

(2) Inform the complainant of any other means that may be available to the complainant to secure relief including referral to the Student Tuition Recovery Fund.

(h) The Bureau may process complaints in the following priority order:

- (1) Complaints alleging health and safety issues,
- (2) Complaints alleging criminal or fraudulent conduct,
- (3) Complaints relating to the filing of a police report,
- (4) Complaints involving suspension or termination of a student,
- (5) Complaints against an institution that involve same or similar allegations,
- (6) All other complaints in the order received.

Note: Authority cited: Sections 94774, 94778 and 94960, Education Code.
Reference cited: Sections 94960, 94739, 94740.3, 94740.5, 94770.1, 94905, and 94944, Education Code; Section 129, Business and Professions Code.

77015. Procedures for an Institution, its Administrator, Instructor, Agent or Agency to Respond to a Complaint; Facilitation by the Bureau; Complaint Disposition

(a) The Bureau shall provide written notification of the complaint to an institution, its administrator, instructor, agent or agency, with a copy to the complainant. The Bureau's written notification shall include a summary of the complainant's allegations and may include a request for information and other

evidence that the Bureau deems necessary for the review and investigation of the complaint.

(1) Within 21 days from mailing of the Bureau's written notification of the complaint, an institution, its administrator, instructor, agent or agency shall provide the Bureau with a written response and include the information and evidence requested. The Bureau may extend the time required for a response to the Bureau's written notification of the complaint for good cause.

(2) If the complaint involves an allegation against an unapproved or an unregistered institution, the Bureau's written notification of the complaint shall also include a request that the institution submit an application for approval or registration or documentation that demonstrates the institution is exempt and not subject to the Act.

(3) If an institution, its administrator, instructor, agent or agency responds within the required period specified in paragraph (1) of this subdivision and provides evidence that the allegations are not a violation of the Act, the Bureau shall close the complaint indicating in the Bureau's records that the complaint's allegations are not a violation of the Act.

(4) If an institution, its administrator, instructor, agent or agency does not respond to the Bureau's written notification of the complaint within the period specified in paragraph (1) of this subdivision, the Bureau may, based on the available information, close the complaint indicating in the Bureau's records whether the complaint has merit or the complaint's allegations are not a violation of the Act. Alternatively, the Bureau may refer the complaint for further investigation or take any other administrative action in accordance with Article 13 (commencing with Section 94950) of the Code.

(b) For complaints that the Bureau determines have merit, the Bureau may take any of the following actions:

(1) After receipt of a response to the written notification of the complaint described in subdivision (a) of this section, the Bureau may attempt to facilitate a resolution to the complaint. The Bureau may make use of teleconferencing to facilitate a resolution. The Bureau may close a complaint in which it facilitated a

resolution and indicate in the Bureau's records that the complaint has merit and was resolved, with or without a refund. If the complainant and the institution, its administrator, instructor, agent or agency do not resolve the complaint, the Bureau may close the complaint indicating in the Bureau's records that the complaint has merit.

(2) If an institution, its administrator, instructor, agent or agency claims to have resolved the complaint, the Bureau may request in writing the complainant to verify, within 14 days, whether or not the complaint was resolved. The Bureau may close a complaint that a complainant has verified indicating in the Bureau's records that the complaint has merit and was resolved, with or without a refund.

(3) If the complainant does not respond within the period specified in paragraph (2) of this subdivision, the Bureau shall close the complaint indicating in the Bureau's records that the complaint has merit but that the complainant was non-responsive to the Bureau's request for verification.

(4) The Bureau may notify an institution, its administrator, instructor, agent or agency in writing that the complaint has merit and provide recommendations for resolving the complaint consistent with applicable provisions of the Act. If an institution, its administrator, instructor, agent or agency does not respond to the Bureau's recommendations within 14 days, the Bureau shall close the complaint indicating in the Bureau's records that the complaint has merit or may refer the complaint for further investigation or take an administrative action in accordance with Article 13 (commencing with Section 94950) of the Code.

(c) At the time the Bureau closes a complaint, the Bureau shall notify the complainant and the institution, its administrator, instructor, agent or agency in writing of the findings, determinations and disposition of the complaint.

(d) Within 21 days of the Bureau's written notification of the complaint closure, the complainant, institution, its administrator, instructor, agent or agency may request the Bureau in writing for reconsideration of the Bureau's determination provided that the request also includes additional or new information supporting the request for reconsideration.

(e) The Bureau may disregard any of the procedures in subdivisions (a) through (c) of this section if providing notice of the complaint or any of its allegations to the institution, its administrator, instructor, agent or agency would interfere with the ability of any federal, state or local agency to investigate or prosecute the institution, its administrator, instructor, agent or agency for any crime or unlawful act.

Note: Authority cited: Sections 94774, 94778 and 94960, Education Code.
Reference cited: Sections 94774.5, 94920, 94940, 94942, and 94960, Education Code; Section 129, Business and Professions Code; Section 11181, Government Code; Section 1798.40, Civil Code.

77020 Complaint Resolution Hearing; Right to Administrative Law Hearing

(a) Within 21 days of the Bureau's written notification of its decision on reconsideration specified in Section 77015(d), the institution, its administrator, instructor, agent or agency that is the subject of the complaint may request in writing a complaint resolution hearing with the Bureau Chief or the Bureau Chief's designee. Failure to make this request within 21 days of the Bureau's written notification of its decision on reconsideration constitutes a waiver of the right to have a complaint resolution hearing.

(1) The request shall specify in writing the manner in which the complaint hearing is to be conducted, either in person in the Bureau's Sacramento office, by mail or via teleconferencing.

(2) If the requestor wishes to designate a representative, the requestor shall also specify in writing the name and affiliation of that representative.

(b) The Bureau Chief or the Bureau Chief's designee shall schedule a complaint resolution hearing within 60 days from the date of a timely request and notify the complainant and requestor in writing of the date, time and place of the hearing.

(c) The hearing shall be limited in scope to the time period, and facts and allegations in the Bureau's written notification specified in Section 77015(a). The

requestor and the complainant may provide additional information in relation to the Bureau's disposition of the complaint prior to, or at the time of, the hearing.

(d) Neither the requestor nor the complainant has any right to discovery or to compel the production of documents or the testimony of witnesses by subpoena.

(e) Within 15 days of the close of the hearing, the Bureau Chief or the Bureau Chief's designee shall issue a decision and notify the requestor in writing of the decision. A copy of the written notification to the requestor shall be forwarded to the complainant.

(f) Notwithstanding this section, the Bureau may take an administrative action based upon the facts and allegations contained in a complaint. If the Bureau takes an administrative action as a result of a complaint, the institution, administrator, instructor, agent or agency shall be accorded a right to pursue an administrative law hearing consistent with Sections 94965, 94975 or 94980 of the Code.

Note: Authority cited: Sections 94774, 94778 and 94960, Education Code.
Reference cited: Section 94960, Education Code.

77025 Public Disclosure of Complaint Information

(a) Any person may request in writing information concerning a complaint filed against an institution or a non WASC regionally accredited institution subject to the Act, including complaints against its administrators, instructors, agents or agencies.

(b) The Bureau shall provide the following complaint history information in response to a request:

(1) The number, date, nature and disposition of complaints on file with the Bureau against an institution or a non-WASC regionally accredited institution, its administrator, instructor, agent or agency;

(2) A description of the type of public information not included in the report such as civil judgements and criminal convictions; and

(3) Disclaimers indicating the complaint does not constitute endorsement or non-endorsement of a person, and it may not contain all available information.

(c) The Bureau shall retain records of complaints for no longer than five years.

Note: Authority cited: Sections 94774, 94778 and 94960, Education Code.
Reference cited: 94770.1, 94779, 94831 and 94950 – 94985, Education Code;
Section 6250 and 6253 of the Government Code; Section 1798.24 of the Civil Code.

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